

By: White

H.B. No. 552

A BILL TO BE ENTITLED

AN ACT

relating to the regulation of occupations by this state.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Title 2, Occupations Code, is amended by adding Chapter 60 to read as follows:

CHAPTER 60. ENFORCEMENT OF OCCUPATIONAL REGULATIONS

Sec. 60.001. DEFINITIONS. In this chapter:

(1) "License" means a license, certificate, registration, permit, or other form of authorization required by law or a state agency rule that must be obtained by an individual to engage in a particular occupation.

(2) "State agency" means a department, board, bureau, commission, committee, division, office, council, or agency of the state.

Sec. 60.002. REGULATION OF OCCUPATIONS. (a) An individual in this state has the right to engage in any lawful occupation without burdensome governmental regulation.

(b) A lawful occupation may be regulated by the state only if the state agency enforcing the regulation demonstrates that the regulation is:

(1) necessary to fulfill the purpose and intent of the statute authorizing the occupation's regulation; and

(2) not substantially burdensome.

Sec. 60.003. DEFENSE AVAILABLE. (a) In any enforcement

1 action by a state agency against an individual for failure to comply
2 with an occupational regulation, including a requirement to obtain
3 a license to engage in a lawful occupation, the individual may
4 present evidence that the regulation substantially burdens the
5 individual's right to engage in a lawful occupation.

6 (b) If the individual shows by a preponderance of the
7 evidence that the regulation substantially burdens the
8 individual's right to engage in a lawful occupation, the state
9 agency has the burden of establishing by clear and convincing
10 evidence that the occupational regulation that the agency seeks to
11 enforce is necessary to fulfill the purpose and intent of the
12 statute authorizing the occupation's regulation.

13 Sec. 60.004. RELIEF. An individual may file suit against
14 the state for declaratory judgment or injunction or other equitable
15 relief that a regulatory requirement imposed on an occupation
16 violates Section 60.002(b).

17 SECTION 2. Chapter 60, Occupations Code, as added by this
18 Act, applies only to a disciplinary hearing or other action that
19 commences on or after the effective date of this Act. A
20 disciplinary hearing or action that commences before that date is
21 governed by the law in effect at the time the disciplinary hearing
22 or action commenced, and the former law is continued in effect for
23 that purpose.

24 SECTION 3. This Act takes effect September 1, 2017.